

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8893 OF 2023

Shri Khandu Vithu Shelar	]	
(Since deceased) Through LRs	]	
Shri Ananda Narayan Shelar	]	
Age 69 Years, Occ. Agriculturist,	]	
R/at. Khavali, Post Asare,	]	
Tal. Wai, Dist. Satara.	]	
Through The Power of Attorney Holder	]	
Shri Chandrakant Dhondiba Shelar	]	
Age 55 Years, Occ. Agriculturist,	]	
R/at – Khavali, Post Asare,	]	
Tal. Wai, Dist. Satara.	]	... Petitioner

Versus

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|----|--------------------------------------|---|
| 1. | The State of Maharashtra |] |
| | The Secretary, Revenue and Forest |] |
| | Department, Mantralaya, Mumbai. |] |
| 2. | The Collector, Satara. |] |
| 3. | The Additional Collector, Satara. |] |
| 4. | The Deputy Collector (Resettlement), |] |
| | Satara. |] |
| 5. | The Deputy Collector (SLAO No. 16), |] |
| | Satara. |] |
| 6. | Shri Kondiba Narayan Dhanawade |] |
| | (Since deceased) Through LRs |] |

6A.	Suresh Kondiba Dhanawade	]	
	Age 51 Years, Occ. Nil	]	
6B.	Pradeep Narayan Dhanawade	]	
	Age 54 Years, Occ. Nil	]	
	Resp. No. 6A to 6B	]	
	R/o. Bhiwadi, Post Triputi,	]	
	Tal. Koregaon, Dist. Satara.	]	
7.	Shri Bapu Ramchandra Pambre	]	
	(Since deceased) Through LRs	]	
7A.	Shri Jagdish Ramdas Pambre	]	
	Age 45 Years, Occ. Nil	]	
	R/o. Dhom, Tal. Wai, Dist. Satara.	]	
7B.	Shri Shivaji Bapu Pambre	]	
	Age 60 Years, Occ. Nil,	]	
	R/o. Dhom, Tal. Wai, Dist. Satara.	]	... Respondents

*Mr. Y. B. Lengare (Through V.C.) for Petitioner.
 Mr. S.B. Kalel, A.G.P. for Respondent Nos.1 to 5-State in WP/8893/2023.
 Mr. Vijay Patil, Senior Advocate a/w. Mr. Nitin Nikam i/b. Mr. Harsh Arun
 Khot for Respondent No.6A-6B & 7A-7B.*

**Coram : M. S. Karnik &
 Ajit B. Kadethankar, JJ.**

Date : 17th December 2025.

JUDGMENT (PER : Ajit B. Kadethankar, J.)

1. Rule. Rule made returnable forthwith and heard finally with the consent of parties.

2. Heard Mr. Lengare, learned counsel for the Petitioner, Mr. Kalel, learned A.G.P. for the Respondent Nos.1 to 5-State and Mr. Patil, learned Senior counsel for the Respondent Nos.6A-6B & 7A-7B.

3. **Subject-matter :-** The matter pertains to the Maharashtra Resettlement of Project Displaced Persons Act, 1976 [for short, "1976 Act"] and the Maharashtra Project Affected Persons Rehabilitation Act, 1999 [for short, "1999 Act"] . The Authorities under the Act have allotted certain land to the Petitioner awarding benefit as Project Affected Persons. The Petitioner however claimed for a larger area of land and also preferential right over the land that is allotted to the Respondents Nos. 6-A & 6B and 7-A & 7B. While the Respondents Nos. 6-A & 6B and 7-A & 7B challenge locus of the Petitioner to question allotment of land made over to them, they also sought to justify how they had preference over the land which the Petitioner is claiming.

During the course of hearing, it is revealed that there are certain disputed questions of facts over which the parties to the litigation do need to be heard by the concerned authority.

4. **Facts in brief :-**

4.1 The Petitioner submits that his land admeasuring 74R comprised in Survey numbers parts of 63, 67, 68, 71, 72, 111, 113, 116 & 117 situated at village Khawali, Tal. Wai, District Satara was acquired by the State Government for the purpose of Dhom dam project. He would

submit that he was entitled for allotment of alternative land under the rehabilitation scheme for project affected persons.

4.2 The Petitioner submitted proposal for land admeasuring 1H 20R situated at Gat Nos. 591/4 & 592/2 at village Khanapur, Tal. Wai, District Satara. The Additional Collector Satara however allotted 4 R land in Gat No. 591/4 at village Khanapur on occupancy Class-II status. The Petitioner was also granted another piece of land situated at Gat No. 125 & 477 at village Mahagaon, Taluka and District Satara. However the Petitioner contended to be deserving for larger area of land considering his family size and various provisions under the scheme of rehabilitation. The Petitioner continued to peruse his claim.

4.3 It is seen that the inaction on the part of the Respondent-Authorities to consider petitioner's proposal constrained him to file Writ Petition No. 783 of 2021 in this Court. This Court vide its Order dated 8th March 2021 disposed of the Writ Petition thereby directing the Respondents to decide the Petitioner's representation dated 22nd December 2020.

4.4 Pursuant to the order dated 8th March 2021 passed by this Court in Writ Petition No. 783 of 2021, the Respondent No.3 i.e. Additional Corrector, Satara, vide his letter dated 28th May 2021, rejected the Petitioner's proposal.

4.5 The Petitioner then filed another Writ Petition bearing No. 3513 of 2021, wherein this Court vide Order dated 21st March 2023 directed the Respondents to handover possession of the land to the Petitioner as per the allotment Order dated 11th December 2020 and left the Petitioner at liberty to make such a representation for the purpose of claiming larger area. Accordingly, the Petitioner received possession of 4R land on 16th May 2023.

4.6 Further vide Order dated 12th June 2023 the Respondent No.4 i.e. the Deputy Collector (Resettlement), Satara held that the Petitioner was allotted 4R land in Gat No. 591/4 at village Khanapur and 76 R land situated in Gat No. 125 & 477 at village Mahagaon, Taluka District Satara. As such total 80R land was allotted to the Petitioner.

4.7 The Respondent No.4 further directed in the said Order dated 12th June 2023 to the Petitioner to file an Application / claim in proper format for additional entitled area of 40 R, pursuant to which suitable action could be taken in view of Government Resolution (G.R.) dated 14th June 2022 and the corresponding provisions in the law. It is pertinent to note that the Petitioner was given understanding of availability of the prescribed format for the Application.

4.8 Feeling aggrieved by the Order dated 12th June 2023, the Petitioner has filed this Writ Petition. Petitioner contends that despite him being entitled for larger area and preference over the land in Gat

No. 591/4 & 592/2 situated at village Khanapur, Tal. Wai, such land is allotted by the Respondent-Authorities to the Respondent Nos.6A & 6B & 7A & 7B.

5. Petitioner's arguments :

5.1 Mr. Lengare, learned counsel for the Petitioner would vehemently argue that the Respondent Nos. 6-A & 6-B as also 7-A and 7-B have multiple agricultural lands at various places, and that the Petitioner has priority and preference over those Respondents.

5.2 Mr. Lengare tried heavily to convince us as to how the Petitioner is entitled for an even larger area and that too at preferred location. He would further submit that the Respondent-Authorities have absolutely not given thoughtful consideration to his claims and thereby have deprived the Petitioner of his legitimate claim.

5.3 Last but not the least, Mr. Lengare invited our attention to his objection as to why and how the Petitioner could be allotted land categorized as Class-II occupancy holding.

6. Respondent's arguments :-

6.1 Mr. Vijay Patil, learned senior counsel instructed by Mr. Harsh Khot for the Respondent Nos. 6-A & 6-B as also 7-A and 7-B would submit that neither the entitlement of those Respondents could be called in question by the Petitioner, nor on merit such allotment in their favour would be said erroneous for any reason. He would further

submit that the Petitioner has absolutely no concern nor does he have any *locus standi* to make any averment against those Respondents.

He would submit that the allotment of the subject land in Gat Nos. 591 & 592 at village Khanapur by the competent Authorities to the said Respondents is followed by the procedure. He would submit that even those Respondents are put in possession by the Respondent -Authorities and possession Panchanama is also executed on 14th July 2023. He would submit that, those Respondents would have nothing to do if the Petitioner deserves any larger area, if the Petitioner could establish his / their claim. He however objects that in no contingency, allotment of the lands in favor of those Respondents could be questioned by the Petitioner.

6.2 Mr. Patil, learned senior counsel was at pains to submit that the Respondent Nos. 6-A & 6-B as also 7-A and 7-B are unnecessarily dragged into the present litigation. He would specifically submit that before this Court passed an interim order dated 19th July 2023, those Respondents were already put in actual and physical possession of the subject-matter lands on 14th July 2023. As such Mr. Patil, learned senior counsel would submit that the Petition be dismissed with costs.

7. Learned Assistant Government Pleader's argument:-

7.1 Mr. Kalel, learned A.G.P. would submit that this Petition is nothing but a misconceived and frivolous litigation. The entitlement of the Petitioner is perfectly as per the provisions of policy that is framed for rehabilitation of the project affected persons.

7.2 Mr. Kalel further urged that the Petitioner has no legal right to claim a specific land or a specific portion of the land. He would further submit that although vide Order dated 19th July 2023 the Respondents were directed not to act upon the allotment order dated 11th July 2023, the actual possession of the subject matter land was already handed over by the Respondent-Authorities to the Respondents Nos. 6-A & 6-B as also 7-A and 7-B on 14th July 2023.

7.3 Mr. Kalel, learned A.G.P. would rely upon the possession Panchanama dated 14th July 2023 attached to the reply affidavit tendered by the Respondent-Authorities. As such Mr. Kalel would submit that the Writ Petition be dismissed summarily.

8. Consideration and discussion :-

8.1 The allotment Order dated 11th July 2023 passed by the Deputy Collector (Resettlement), Satara, depicts that the said Authority with reasoned Order allotted the subject matter land admeasuring 77 R in Gat No. 591/4 to the Respondent Nos.6A & 6B and land admeasuring 56R in Gat No. 591/4 to the Respondent No.7A & 7B.

The said lands are situated at village Khanapur, Tal. Wai.

8.2 It is the contention of the Petitioner that considering the number of family members i.e. 15, he was entitled for 2H land of occupancy Class-I status in view of Section 16(1) of the 1999 Act and Section 17 of the 1976 Act.

He would further submit that the Petitioner is even entitled up to 1H 20R of land, as per the provisions of Section 16 Part-III of the 1999 Act or Section 17, Part-I of Schedule-B of the 1976 Act.

8.3 We find that the Petitioner is attempting to justify his claim on the basis of some factual aspect i.e. number of family members, the nature of his acquired land and the nature of such status of the land allotted to him / them. Besides this, the Petitioner has also questioned entitlement of the Respondents Nos. 6-A & 6-B as also 7-A and 7-B to receive the land for which the Petitioner had given preference. On the other hand, the learned A.G.P. and the learned senior counsel for the Respondent Nos. 6-A & 6-B as also 7-A and 7-B would dispute legitimacy of the claim raised by the Petitioner as also his locus to challenge the entitlement of Respondents Nos. 6-A & 6-B as also 7-A and 7-B.

We note the key objection raised by Mr. Lengare, learned counsel for the Petitioner as to the nature/class of occupancy rights or the nature/class of the land allotted to the Petitioner. Indeed there is

substantial difference in the occupancy rights of Class-I and Class-II agricultural lands.

8.4 We find that the matter is governed by the provisions of 1976 Act and 1999 Act as also the Government Resolution dated 9th May 1973. We also take on record the submission of Mr. Lengare that there are even more provisions under which the Petitioner can establish his claim, if proper opportunity is given to prove the same.

8.5 Following are the key issues raised in the present Writ Petition.

- (i) Extent of area entitled to be received by a Project Affected Person,
- (ii) Preference on land for allotment of the allottee,
- (iii) Nature of land i.e. Class-I/Class-II to be allotted to the parties and the parameters to be applied for such allotment, and
- (iv) Procedure to be adopted for resolving the controversy arising out of the first three factors.

8.6 As per submission of Mr. Kalel, learned A.G.P. the Competent Authority to take decision in such contingency is the Deputy Collector (Resettlement), Satara, i.e. Respondent No.4. The said Authority has allotted the respective lands to the respective parties.

8.7 During the course of the arguments, respective parties submit that while deciding the claims as regards the entitlement for larger area as also the preferences of location, the Respondent No.4 could have given an opportunity of hearing to the respective concerned parties.

8.8 Considering the disputed questions of facts raised in the present Petition, we are of the view that the concerned Authority i.e. the Respondent No.4 has to decide such disputed questions of facts raised by the Petitioner as regards his entitlement to receive larger area and that too at the preferred location. Further if the Petitioner legitimately had preference over the subject matter lands in question, what is to be done with the lands already allotted and handed over to the Respondent Nos. 6-A & 6-B as also 7-A and 7-B *qua* the right of the said Respondents, who had not committed any wrong while the subject-matter lands are allotted to them.

8.9 In view of the allotment of some land of which the Petitioner has given preference and that being allotted to the Respondent Nos. 6-A & 6-B as also 7-A and 7-B , it would also be appropriate in the interest of justice that the Respondent No.4 also give an opportunity of hearing to the Respondent Nos. 6-A & 6-B as also 7-A and 7-B .

8.10 In view of this, we do not comprehend with Petitioner's contention that the Order dated 12th June 2023 issued by the Respondent No.4 has shut the doors completely for the Petitioner. In view of the said Order, rather the Petitioner is also at liberty to put and justify his claim for additional land for which he has to process his application appropriately.

9. In view of aforesaid, we pass the following Order.

- (i) The Petitioner shall make appropriate application to the Respondent No.4 in appropriate format for additional area of land for allotment of an additional land within eight weeks from the date of receipt of a copy of this order.
- (ii) The Petitioner would also be at liberty to demonstrate legitimacy of his demand for his preferred location.
- (iii) The Respondent No.4 Shall give full opportunity of hearing to the Petitioner as also to the Respondent Nos. 6-A & 6-B as also 7-A and 7-B to resolve the grievance raised by the Petitioner, as also to ascertain whether there is any wrong in allotment of the subject-matter lands to the Respondent Nos. 6-A & 6-B as also 7-A and 7-B .
- (iv) All contentions are kept open for all the respective parties.
- (v) We make it clear that we have not commented on merits of the respective parties' cases.
- (vi) Upon receipt of the Application / claim by the Petitioner in appropriate format (supra), the Respondent No.4 shall issue notice to the Respondent Nos. 6-A & 6-B as also 7-A and 7-B calling upon them to put up their response.

- (vii) The Respondent No.4 shall take appropriate decision on its own merits keeping in mind the relevant provisions of law, the policy of Government, and the true facts concerning the respective parties.
- (viii) The Respondent No.4 shall make an endeavour to conclude such proceedings within a period of six months from the date of appearance of the Respondent Nos. 6-A & 6-B as also 7-A and 7-B before him.
- (ix) Considering the statement made on oath by the Respondent-State Authorities and the recitals of the Panchanama dated 14th July 2023, which show that the possession of the subject matter lands have already been handed over to the Respondent Nos. 6-A & 6-B as also 7-A and 7-B on 14th July 2023 i.e. prior to the interim relief dated 19th July 2023; and as the issues are referred to the Respondent No.4, the Respondent Nos. 6-A & 6-B as also 7-A and 7-B would be entitled to enjoy possession of their respective lands, however shall not create any third party interest until the Respondent No.4 passes final Order.

10. Rule is made absolute in the above terms.

11. In view of the aforesaid directions, the Writ Petition stands disposed of.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]

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